

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0798
Description of development:	Construction of a 6 Storey Mixed Use Development comprising of 2 Commercial Type Tenancies at the Ground Floor with Five Levels of Residential Apartments Above containing 18 Units Located Above Two Levels of Basement Car Parking & Consolidation of 3 Lots
Classification of development:	Class 2 , Class 6 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 5 DP 112466 Lot 6 DP 1003862 Lot 4 DP 112466
Property address:	118 Station Street, PENRITH NSW 2750 120 Station Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Ads Architects 11 Egerton Street SILVERWATER NSW 2128
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	23 December 2021
Date the consent expires	23 December 2026
Date of this decision	22 December 2021

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Robert Walker
Contact telephone number:	+61247327409

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following approved plans and documents referenced in this consent, the application form, and any supporting information received with the application, except as varied by any conditions within this consent.
 - Site Plan, Drawing No. 0401, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Lower Basement Floor Plan, Drawing No. 1101, Revision 05, prepared by Architecture Design Studio, dated 18 November 2021
 - Upper Basement Floor Plan, Drawing No. 1102, Revision 05, prepared by Architecture Design Studio, dated 18 November 2021
 - Ground Floor Plan, Drawing No. 1201, Revision 05, prepared by Architecture Design Studio, dated 18 November 2021
 - First Floor Plan, Drawing No. 1301, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Second Floor Plan, Drawing No. 1302, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Third Floor Plan, Drawing No. 1303, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Fourth Floor Plan, Drawing No. 1304, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Fifth Floor Plan, Drawing No. 1305, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Sixth Floor Plan, Drawing No. 1306, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Roof Plan, Drawing No. 1401, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - North & South Elevations, Drawing No. 1501, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - East & West Elevations, Drawing No. 1502, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Sections 01 & 02, Drawing No. 1601, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Section 03, Drawing No. 1602, Revision 05, prepared by Architecture Design Studio, dated 28 September 2021
 - General Arrangement Section, Drawing No. 1603, Revision 02, prepared by Architecture Design Studio, dated 28 September 2021
 - Accessible Unit Configuration, Drawing No. 3001, Revision 04, prepared by Architecture Design Studio, dated 28 September 2021
 - Landscape Plan, Drawing No. 20-4238-L01, Revision 'C', prepared by Zenith Landscape Designs, dated 21 September 2021
 - Landscape Plan, Drawing No. 20-4238-L02, Revision 'C', prepared by Zenith Landscape Designs, dated 16 September 2021
 - Landscape Plan, Drawing No. 20-4238-L03, Revision 'C', prepared by Zenith Landscape Designs, dated 16 September 2021
 - Stormwater Concept Plans, Project No. 200763, prepared by ACE Civil Stormwater Services

- 2 **Prior to the issue of any Construction Certificate**, Lot 5 DP 112466, Lot 6 DP 1003862 & Lot 4 DP 112466, are to be consolidated.

Evidence of lot consolidation and plan registration with NSW Land Registry Services is to be provided to the Certifying Authority and Penrith City Council.

- 3 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority is to be provided with copy of the registered Title noting:

- a restriction is registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919, requiring that Apartment Nos. 01-01, 02-01, 03-01 & 04-01, must be used for the purposes of '*affordable housing*' (as defined by State Environmental Planning Policy (Affordable Rental Housing) 2009, and
- that the respective apartments must be managed by a 'registered community housing provider' (as defined by the Housing Act 2001), for a minimum period of 10 years from the date of the issue of any **Occupation Certificate**. The name of the authority having the power to release, vary or modify the restriction referred to is to be Penrith City Council.
- Prior to the occupation of the respective apartments, details of the 'Registered Community Housing Provider' managing the affordable housing are to be provided to Penrith City Council.

Advisory notes:

(i) Under State Environmental Planning Policy (Affordable Rental Housing) 2009 a 'Registered Community Housing Provider' is defined as an entity that provides community housing.

(ii) State Environmental Planning Policy (Affordable Rental Housing) 2009 defines affordable housing as follows:

Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

(iii) Evidence that the respective apartments are being utilised for the purposes of affordable housing, in accordance with the above requirements, must be retained by the respective owner(s) and made available for Council inspection upon request.

- 4 The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 7 A building plan approval must be obtained from Sydney Water Tap in to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in must be obtained prior to works commencing.

Please refer to the web site www.sydneywater.com.au (plumbing, building & developing - Sydney Water Tap in), or telephone 13 20 92.

- 8 **Prior to the issue of a Construction Certificate**, compliance with AS 4253-2019 is to be demonstrated including address of Appendix A – Positioning and Numbering of Mailboxes.

9 **Prior to the issue of a Construction Certificate**, evidence of compliance with the Design and Building Practitioners - Particulars for Regulated Designs Order 2021 is to be provided to the satisfaction of the Certifying Authority, for any excavation, shoring and anchoring works that traverse a property boundary. This includes evidence of a registered easement over a neighbouring property granting the right to install such works as required.

- 10 For the purposes of Section 4.17(11) of the Act, it is a prescribed condition of this development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this development consent must, at the person's own expense:
- (a) protect and support the building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.

Further to the above and prior to the commencement of any excavation works, a dilapidation report is to be prepared and submitted to Council. The report is to record and detail the existing state of surrounding assets and structures, including those located on adjacent private property, at Nos. 114-116 Station Street, No. 234 Derby Street and No. 19 Reserve Street.

- 11 Apartment Nos. 04-02 & 04-03 are to be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable apartments shall each be allocated an accessible car parking space compliant with AS 2890.6, in accordance with the approved plans.

The Construction Certificate application must be accompanied by certification from a suitably qualified and experienced professional, confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299 2009).

A Compliance Certificate in relation to the above, shall be provided prior to the issue of an Occupation Certificate.

- 12 Apartment Nos. 01-03, 02-03 & 03-03 are to be constructed as livable apartments, to incorporate the Livable Housing Guideline's silver level universal design features.

The Construction Certificate application must be accompanied by certification from a suitably qualified and experienced professional, confirming that the livable apartments incorporate the Livable Housing Guideline's silver level universal design features.

A Compliance Certificate in relation to the above, shall be provided prior to the issue of an Occupation Certificate.

- 13 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

(a) Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

(b) Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry / exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.

- A permeable sliding gate and fence is to be erected in the Upper Basement, in lieu of the boom gate, to prevent unauthorised pedestrian access beyond this alignment.
- A permeable gate and fence is to be erected in the Upper Basement at the southern end of car parking space No.1, to prevent unauthorised pedestrian access beyond this alignment and to the storage cages.
- Access to the loading dock (off Reserve Street) must also be restricted (i.e permeable roller shutter) to minimise unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

(c) Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building.
- Australian Standard 220 door and window locks must be installed in all dwellings and commercial premises.
- CCTV is to be provided to cover communal public space areas, including rear loading dock. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Letterboxes must be positioned to be opened from within private open space only.
- Storage cages in the basement car park must be sturdy and vandal resistant.

(d) Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

(e) Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

14 Illumination is to be arranged in accordance with the requirements of Australian Standard 4282 - Control of the obtrusive effects of outdoor lighting, so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

15 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority / Principal Certifying Authority must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and cladding such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

16 Prior to the issue of an Occupation Certificate, a hose and tap is to be provided on all balconies.

17 Any air conditioning units installed on individual apartment balconies are to be set back from the outer edge of the balcony and are not to be mounted on the wall above the balustrade level. All roof mounted plant, ducting or services infrastructure shall be setback so as to be screened from view. No approval is granted for the installation of ducting, conduit, stormwater drainage, plant machinery or services infrastructure on the

external facades of the building.

- 18 Separate approval is required for the use of the Ground Floor commercial type occupancies, prior to the use / occupation of such.
- 19 The use of the commercial tenancies is to be limited to between 8:30am and 6pm, Mondays to Saturdays. The use of the commercial tenancies is to be conducted so as to avoid unreasonable noise and cause no interference to adjoining or nearby residences.
- 20 No garbage waste, dumped goods or bulky waste such as disused or broken furnishings are to be stored at the site (unless temporarily placed within the approved bulky waste collection area). All car parking spaces are to be used for vehicle parking at all times, and are not to be used for the storage of goods or unregistered / disused vehicles or the like.

Heritage/Archaeological relics

- 21 If any archaeological relics are uncovered during the course of the works, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 22 Erosion and sediment control measures shall be installed prior to the commencement of works on site. The erosion and sediment control measures are to be installed and maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The erosion and sediment control measures are to be maintained throughout the construction phase of the development until construction of the development, including all landscaping and hardstand areas, are completed.

These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 23 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 24 All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall be fully enclosed when the site is unattended.
- 25 All excavated material and other construction wastes generated as a result of construction of the development are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in a waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 26 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L and dated 20 November 2020 (Ref: 20202-234 Rev. 2). The recommendations provided in the Acoustic Report shall be implemented and incorporated into the design, construction and operation of the development. This includes (but is not limited to):
- operation hours of loading docks are restricted to 7am-10pm daily. Operation of the loading docks is not permitted outside of these hours;
 - the loading dock is to be roofed in accordance with the recommendations provided in Section 8.0 of the approved Acoustic Report;
 - 2.1 metre high fencing is to be constructed around the loading dock area at the western boundary (refer to Figure 6 of the Acoustic Report);
 - compactors are to be enclosed and used only during the day.

Further acoustic assessment (by a suitably qualified acoustic consultant) of the loading dock areas and all

mechanical plant and equipment is to occur in the final design stage and prior to the issue of any Construction Certificate. In this regard, further details on the loading dock and the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for approval. Suitable data and information (prepared by a suitably qualified acoustic consultant) on the noise impacts associated with the loading dock and plant and equipment is to be supplied to demonstrate compliance with the noise criteria established in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L and dated 20 November 2020 (Ref: 20202-234 Rev. 2).

Prior to the issue of an Occupation Certificate, a certificate is to be obtained from a suitably qualified acoustic consultant certifying that the building, including fencing and all associated mechanical plant and equipment, has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 27 All vehicle washing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the site shall be submitted to the Principal Certifying Authority before the wash bay can be installed.

- 28 Only clean unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.
- 29 Should any "unexpected finds" occur during site excavation works, including but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and / or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental person/consultant.

All remediation works within the Penrith Local Government Area are Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

{Note: For the purpose of this condition an appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 30 The following waste management requirements must be complied with and details of compliance demonstrated to Council prior to the issue of a Construction Certificate:
- All on-site waste collection infrastructure, doors and access points (waste collection room and bulky goods collection room) are to be locked/accessed through Council's Abloy Key System. System specifications are outlined in Section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.
 - All on-site waste collection infrastructure (waste collection room, bulky goods and commercial waste) is to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.

- The chute inlets on each residential level are to be located within cupboards (maximum depth of 150mm) and incorporate dual self-closing sealed doors, ventilation, waterproofing and permit accessible resident access.
- All on-site waste collection infrastructure (waste collection room, bulky goods and commercial waste) is to provide automatic lighting and mechanical ventilation, incorporate 180-degree outwards opening doors and provide unobstructed internal height clearances of 2.7m free from external services and utilities.
- The commercial waste collection room to be enclosed, walled and locked in accordance with Section 3.4.1 of the 'Industrial, Commercial and Mixed-Use Waste Management Guideline' document.
- A 2m wide unobstructed access pathway is required from the on-site collection infrastructure (waste collection and bulky goods collection rooms) to the rear of Council's standard waste collection vehicle.
- The linear track system is to be shifted 100mm to the south-west to permit a 1.8m wide unobstructed loading zone for the use of the linear track system.
- A boom gate or similar restricted access system is to be installed adjacent to the basement ramp to inhibit unauthorised vehicles parking on the loading bay. The device to be accessible through Council's Abloy key system and systems operations are to be outlined within an amended Waste Management Plan submitted to Council's Waste and Resource Recovery Department.
- Updated swept path models illustrating unobstructed access for Council's waste collection vehicle are to be provided with minimum unobstructed clearances demonstrated in accordance with Section 2.2.3 of the 'Residential Flat Building Waste Management Guideline' document.

31 Prior to the issue of an Occupation Certificate, the following is to be submitted to and approved by Penrith City Council:

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage. By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.
- Councils Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure with Council's collection contractors. The inspection is to review the on-site waste collection infrastructure for the provision of a safe and efficient waste collection service in accordance with the stamped plans and Council's policy provisions.
- The assigned strata manager for the development and direct contact details are to be provided to Council's Waste and Resource Recovery Department.

BCA Issues

32 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

Utility Services

33 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

34 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

35 The provision of all electricity related infrastructure for the development is to be placed underground.

36 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

- 37 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works on site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

- 38 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

- 39 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority immediately prior to the positioning of wall panels / bricks or

block work.

Additionally, a Survey Certificate of the location of the building upon completion shall be undertaken and submitted to the Principal Certifying Authority, prior to the issue of any Occupation Certificate. The Survey Certificate is to show the boundaries of the allotment and the distances of the building from the boundaries, and is to certify that the building has been positioned in accordance with the approved plans.

- 40 Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

- 41 Dust suppression techniques are to be employed during demolition and construction activities to reduce any potential nuisances to surrounding properties.
- 42 In accordance with Clause 97A (2) of the Environmental Planning & Assessment Regulation 2000, all commitments listed in the BASIX Certificate supporting the application (No. 1132998M_03, dated 22 September 2021), are to be fulfilled.

Engineering

- 43 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 44 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

- 45 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by

Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpath along the Reserve Street frontage of the development site
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- e) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)
- h) The removal of redundant driveways and kerb crossovers, and the required reinstatement of kerb along the frontage of the site.

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 46 Prior to the issue of any Construction Certificate, the Certifier shall ensure that a separate Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of public domain works along the Station Street frontage in accordance with Penrith City Council's Penrith CBD Public Domain Technical Manual.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 47 The stormwater management system shall be consistent with plans lodged for development approval, prepared by Civil and Stormwater Engineering Services Pty Ltd, project number 200763, revision D, dated 10/09/2021.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

- 48 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 Plumbing and Drainage – Stormwater Drainage.
- 49 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the development is compatible with the recommendations of the Flood Report prepared by Alpha Engineering & Development, reference number A20163, revision E, dated 18/11/2021. This flood report shall also include a Flood Evacuation Management Plan for all events up to and including the PMF event. If Council is not the Certifier for the development then the revised flood report shall be submitted to Council prior to the issue of any Construction Certificate for review.
- 50 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 28.2m AHD (adopted flood level + 0.5m freeboard).
- 51 Prior to the issue of any Construction Certificate, the Certifier shall ensure that any structures below RL 28.2m AHD (adopted flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.
- 52 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structures can withstand the forces of floodwater, including debris and buoyancy, up to the 1% Annual Exceedance Probability event in accordance with the requirements of the Building Code of Australia (BCA).
- 53 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all electrical services associated with the approved building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan provisions relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the adopted flood level of RL 27.7m AHD.
- 54 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS 2890.1, AS 2890.2 and AS 2890.6.

- 55 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 56 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for provision of public domain works along the Station Street frontage in accordance with Penrith City Council's Penrith CBD Public Domain Technical Manual.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.
- 57 Prior to the issue of any Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The technical direction GTD 2012/001 prepared by Transport for NSW can be used as a guide for preparing the geotechnical investigation report and strategy.
- 58 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development, then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate, and then updated and submitted prior to the issue of any Occupation Certificate, confirming no damage has occurred.
- 59 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.
- The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 60 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 28.2m AHD (adopted flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.
- 61 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception

of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

- 62 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authority's regulations and standards.
- 63 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with all Section 138 Roads Act approvals have been inspected and signed off by Penrith City Council.
- 64 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage Specification for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

- 65 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):
- Has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Satisfies the design intent with regard to any construction variations to the approved design.
 - That any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 66 Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Developments - Appendix F.
- 67 Prior to the issue of any Occupation Certificate, a 4m x 4m splay corner at the intersection of Station and Reserve Streets, is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land Registry Services (LRS). The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.
- 68 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for provision of public domain works along the Station Street frontage, in accordance with Penrith City Council's Penrith CBD Public Domain Technical Manual.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 69 The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

- 70 Prior to the issue of any Occupation Certificate, all areas designated on the plans for waste truck on-site manoeuvring and turning, are to be separated and made non-accessible at all times by residents, visitors, pedestrians and members of the public. This must be accompanied by both internal and external signage stating that the area is solely for waste collection vehicles and that "No Pedestrian Access" is permitted. Details of such are to be approved by Council prior to implementation and installed at no cost to Council.

- 71 Prior to the issue of any Occupation Certificate, pedestrian safety in the proposed on-site waste truck manoeuvring area is to be supported by the inclusion of:

- A flashing light system which lights up as a vehicle is exiting the loading dock to warn oncoming pedestrians.
- Dynamic warning signage for pedestrians passing the driveway stating; "caution vehicle exiting", which would light up as a vehicle exits the loading dock.

This is to be approved by Council prior to implementation and installed at no cost to Council.

- 72 The proposed waste vehicle manoeuvring area requires hardstand area in its entirety. All proposed waste truck on-site manoeuvring / turning areas, are to be constructed as a hardstand, sealed concrete surface.

- 73 All car parking and manoeuvring must be in accordance with AS 2890.1-2004, AS 2890.6-2009 and Council's requirements.

- 74 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles only and not to be used for storage of materials, products, waste materials, etc.

- 75 Subleasing of car parking spaces is not permitted by this consent.

- 76 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

77 All vehicles are to enter/exit the site in a forward direction.

Landscaping

78 All landscape works are to be installed by a suitably qualified and experienced landscape professional, in accordance with the stamped approved plans. Landscaping shall thereafter be maintained in accordance with the approved plans, in a healthy state, and in perpetuity. If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed. Any such replacement planting must occur within 6 months of the former vegetation dying or being removed, or within the next relevant seasonal cycle.

79 Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional. An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving. The report is to be prepared by a suitably qualified and experienced landscape professional.

80 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

81 Prior to the issue of an Occupation Certificate, a hose and tap must be installed in the setback area to Station Street and within the south-eastern setback area.

Section 94

- 82 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,635 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 83 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$54,548 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 84 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$19,731 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular

PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 85 This condition is imposed in accordance with the Penrith City Centre Civic Improvement Plan (Commercial Floor Space). Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$32,074 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Penrith City Centre Civic Improvement Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 86 This condition is imposed in accordance with the Penrith City Centre Civic Improvement Plan (Multiple Dwellings). Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$182,970 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Penrith City Centre Civic Improvement Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

- 87 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifier to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifier shall submit to Council an "Appointment of Principal Certifier" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 88 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Robert Walker
Signature:	

For the Development Services Manager